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Office of General Counsel
Washington, DC 20405

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January 10, 1997

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Washington, D.C. 20554

Subject: Federal-State Joint Board on Universal Service, CC Docket No. 96-45.

Dear Mr. Caton:

Enclosed please find the original and six copies of the General Services Administration's Reply Comments for filing in the above-referenced proceeding.

Sincerely,

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Enclosures

cc: International Transcription Service
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	

REPLY COMMENTS OF THE
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January 10, 1997

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Summary

The 1996 Act clearly contemplates that universal service support should be drawn from both interstate and intrastate services revenues. However, if the revenue base used to assess universal service support obligations is limited to interstate revenue, GSA believes the Commission should limit contributions to the recovery of the interstate portion of universal service subsidies. This limitation is consistent with the 1996 Act and the Commission's jurisdictional separations rules.

If the revenue base for assessing universal services support contributions includes both interstate and intrastate revenue, GSA recommends that the Commission should take steps to prevent double counting. The position advanced by a number of carriers that the revenue base should be calculated on the basis of interstate and intrastate "retail" revenue is a viable approach to prevent double counting.

Because some contract services contain unregulated services, GSA does not believe that all contract revenues should be included in the funding base of universal service support programs. Rather, only the contract revenue attributable to regulated services should be included.

GSA strongly disagrees with the Board's recommendation to maintain the CCL charge largely in its current form. GSA believes the CCL charge is not an explicit universal service subsidy and that the Commission should remove the charge from the funding scheme.

GSA recommends that the Commission retain the cost reduction incentives contained in its current rules, regardless of the revenue base used to assess universal service support obligations or the method by which carrier costs are computed.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	

REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION

The General Services Administration ("GSA"), on behalf of the customer interests of the Federal Executive Agencies ("FEAs"), submits these Reply Comments in response to the Commission's Public Notice ("Notice"), DA 96-1891, released November 18, 1996. In that Notice, the Commission requested comments on the Recommended Decision of the Federal-State Joint Board on Universal Service ("Board").[1] The Commission also requested comments on several specific issues not resolved in the Recommended Decision.

I. INTRODUCTION

Pursuant to Section 111(a) of the Federal Property and Administrative Services Act of 1949, as amended 40 U.S.C. 759(a)(1), GSA is vested with the responsibility to

[1] Recommended Decision, FCC 96J-3, released November 8, 1996. ("Recommended Decision").

represent the customer interests of the FEAs before Federal and state regulatory agencies. Collectively, the FEAs are probably the largest user of telecommunications services in the nation. On the FEAs behalf, GSA has consistently supported the Commission's efforts to bring the benefits of competitive telecommunications markets to all consumers, including the Commission's efforts with respect to the implementation of the Telecommunications Act of 1996 ("1996 Act").[2]

In addition to GSA, a total of 299 other parties filed comments in this proceeding. These parties include:

7	Regional Bell Operating Companies;
6	Incumbent Local Exchange Carriers;
8	Interexchange Carriers;
36	Competitive Telecommunications Carriers;
22	State Regulatory Agencies;
11	Associations Representing Various Telecommunications Carriers; and
109	Organizations Representing Interests of Education and Health Care.

In these Reply Comments, GSA responds to a number of positions advanced by several of these parties concerning three specific topics, (1) the appropriate revenue base for

[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996)(to be codified at 47 U.S.C. Sec. 151, *et seq.*).

assessing universal service support contributions, (2) revision of the Carrier Common Line ("CCL") charge, (3) the appropriate method of determining carrier costs for purposes of determining universal service support levels, and (4) incentives for carriers to increase productivity.

II. THE REVENUE BASE USED TO ASSESS UNIVERSAL SERVICE CONTRIBUTIONS SHOULD BE CLEARLY DEFINED

Basic to the universal service support system envisioned by Congress are the principles that universal service support mechanisms must be predictable and explicitly stated and that contributions from telecommunications carriers should be made on an equitable and non-discriminatory basis. Indeed, Sections 254(b)(4) and 254(b)(5) of the 1996 Act require that "[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service" and that "[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution" to the universal service support mechanisms.

The majority of the state regulatory agencies that filed comments in this proceeding advocated using only interstate revenues to fund universal service support programs.[3] In contrast, the majority of carriers that filed comments in this proceeding advocated using both interstate and intrastate revenues to determine universal service support contributions.[4] Regardless of the revenue base used to determine universal service

[3] *See e.g.*, Comments of: MD PSC, pp.10-18; NY DPS, pp. 3-8; and IA UB, pp. 5-8.

[4] *See e.g.*, Comments of: AT&T, pp. 5-8; MFS, pp. 40-42; and PacTel, pp. 23-24.

obligations, however, the Commission must define the support mechanisms consistent with the 1996 Act's requirements.

A. The 1996 Act Clearly Contemplates That Universal Service Support Should Be Drawn From Both Interstate and Intrastate Services Revenues.

As indicated above, the majority of the state regulatory agencies advocated using only interstate revenues to fund universal service support programs.[5] Implicit in this position is the conclusion that separate federal and state universal service funds must be established. Indeed, as Commissioner Laska Schoenfelder of the South Dakota Public Utilities Commission indicated in a separate statement filed with the Board's Recommended Decision:

> The jurisdiction between the Commission and the states is distinct. The Commission possesses authority to assess interstate revenues, while State Commissions have authority to utilize intrastate revenues. To recommend that the Commission utilize intrastate revenues is certainly beyond the scope of its jurisdiction.[6]

GSA strongly disagrees with these views. While it is true that the Commission's authority extends only to interstate services, the Commission has not proposed this

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[5] The Public Service Board of Vermont is a notable exception.

[6] Separate Statement of Commissioner Laska Schoenfelder, dated November 7, 1996, filed with the Recommended Decision of the Federal-State Joint Board on Universal Service, pp. 6-8.

universal service support program, but rather a Joint Board composed of both federal and state regulators, convened pursuant to Section 254 of the 1996 Act, has proposed this universal service support program. It is impossible to reconcile the 1996 Act's prescription of a Joint Board, including state commission members, with the creation of a universal service plan that assesses only interstate services. If it was the intent of Congress to retain the jurisdictional isolation of interstate services for purposes of a universal service fund, it would have left the matter to the Commission's sole discretion. It did not.

Quite apart from these legal arguments, GSA questions the practical feasibility of continuing to maintain the distinction between interstate and intrastate services either for collections into the universal service fund or for distributions from it. The traditional model of a point-to-point telephone call, where it is possible to determine whether the caller and receiver are in different states, breaks down.

Is it feasible, for example, to break the Internet down into intrastate and interstate components? Can the carriers trace the jurisdiction of simultaneous point-to-multi-point FAXES where some of the terminations are within the originating state and others outside of it? Can they identify the jurisdictional components of data transfers through a multi-point grid? Clearly, further attempts to maintain rigid jurisdictional separations of services are condemned to founder on the increasingly complex nature of telecommunications into the 21st Century.

Therefore, the Federal universal service fund should cut across jurisdictional separations and draw from all telecommunications services and carriers, both interstate and intrastate.

B. If Interstate Revenue Is The Funding Base For The Universal Service Support Programs, Contributions Should Be Limited To The Recovery Of The Interstate Portion Of Total Universal Service Subsidies

If, notwithstanding the argument stated above, the Commission determines that its authority to assess the universal service obligations is limited to interstate revenue, then the Commission should symmetrically limit carrier recovery to the interstate portion of universal service subsidies. For example, any compensation for high-cost subscriber loops would be limited to the 25 percent interstate allocation of subscriber access costs.

Requiring interstate services to "foot the bill" for the entire universal service system is contrary to the 1996 Act, which requires that universal service support contributions be made on a nondiscriminatory basis.[7] If interstate services are required to fund the entire universal service support system, then they will bear a discriminatorily high burden relative to intrastate services. Moreover, limiting recovery to the interstate portion of universal service support subsidies is consistent with the Commission's jurisdictional separations rules.[8]

[7] 47 U.S.C. 151 *et seq.*, Section 254(b)(5).

[8] 47 CFR, Part 36.

C. If The Revenue Base Used To Assess Universal Service Obligations Is Both Interstate and Intrastate Revenues, Then The Commission Should Take Steps To Prevent Double Counting

In GSA's April 12, 1996 Comments, GSA proposed a competitively neutral universal service plan that satisfies the requirements of the 1996 Act without seriously eroding economic efficiency in telecommunications markets.[9] In that plan, universal service support obligations would be assessed on the basis of revenues net of payments to other carriers. Payments to other carriers are excluded to prevent double counting of revenue. A number of carriers that filed comments in this proceeding advocated an alternative approach that would also prevent double counting and might be a viable option for the Commission.[10] Under this approach, both interstate and intrastate "retail" revenues would be used to assess the universal service contributions of carriers. The approach assumes that the Commission has the authority to assess both interstate and intrastate revenues, an issue addressed above. If the Commission possesses this authority, the proposal may offer several advantages. First, subtraction of payments to other carriers will be difficult to monitor and may be administratively infeasible. By removing the need to identify these payments separately, this approach would be easier and less expensive to administer. The Commission may reasonably utilize carrier data it already collects for this purpose.

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[9] GSA Comments, April 12, 1996, pp. 4-7.

[10] *See e.g.*, Comments of: USTA, pp. 15-20; and AT&T, pp. 5-8.

Second, by assessing universal service obligations on the basis of "retail" revenue, this approach makes subsidies more explicit, as required by the 1996 Act.[11] Indeed, this approach would allow universal service subsidies to be identified specifically on customer's bills, thereby achieving a visibility consistent with the 1996 Act's "explicit" requirement.

Finally, by assessing universal service obligations on the basis of interstate and intrastate retail revenue, this approach eliminates the need to apply the Commission's jurisdictional separations rules. As noted earlier in these Comments, this approach is consistent with the goal of the 1996 Act to provide a nationwide universal service support mechanism that draws equally from all regulated services and carriers regardless of jurisdiction.[12]

D. Revenue From Unregulated Contract Services Should Be Excluded From Universal Service Obligations Regardless Of Revenue Base Used To Assess Contributions

Revenues from all unregulated contract services, like those other unregulated activities of carriers, should be excluded from universal service obligations. These unregulated revenues should be excluded regardless of whether the base used for universal service contributions includes both interstate and intrastate revenues, or only interstate revenues.

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[11] 47 U.S.C. 151 *et seq.*, Section 254(b)(5).

[12] Id., Section 254.

All revenues obtained through a contract encompassing only unregulated services should be excluded to ensure the appropriate financial separation between the regulated and unregulated activities of the carrier. If the contracting process itself Is unregulated, at least with respect to pricing, all carrier revenues under the contract should be excluded from the universal service support base for the same reason.

Many current contracts cover both regulated and unregulated telecommunications services. For example, some contracts between GSA and telecommunications carriers cover both unregulated customer premises equipment and regulated offerings, such as local exchange services. For such contracts, the revenue effect of unregulated services should be subtracted from the total contract revenue to establish the as for universal service obligations.

III. THE CARRIER COMMON LINE CHARGE SHOULD NOT BE A COMPONENT OF THE UNIVERSAL SERVICE SUPPORT MECHANISMS

In its Recommended Decision, the Board recommends leaving the existing CCL charge largely in tact.[13] As GSA indicated in its comments, however, the CCL charge is antithetical to economic efficiency.[14] GSA believes that the usage-based CCL charge is not the appropriate mechanism for recovering the interstate portion of local loop costs and therefore urges the Commission to eliminate the charge entirely.

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[13] The Board recommends eliminating the Long Term Support portion of the CCL charge and recovering the shortfall from a different source.

[14] GSA Comments, pp. 3-4.

GSA notes that the California Public Service Commission recently took this action with respect to the California intrastate CCL charge. The California Commission recognized that this charge encouraged interexchange carriers to by-pass local exchange networks to avoid usage-based CCL charges. Interexchange carriers would be particularly motivated to provide high-volume users with dedicated access to their own networks. By eliminating the CCL charge, the California Commission removed carriers' incentives to deploy telecommunications plant inefficiently.[15]

In recognition of these infirmities, GSA recommends that the Commission remove the CCL charge from the universal service support mechanism entirely. Such an action would be consistent with the 1996 Act, which requires that all universal service support subsidies be "specific, predicable, and sufficient" to preserve and advance universal service.[16] In addition, elimination of the CCL charge from the universal service support system would promote economic efficiency and remove the market distortions that this charge creates.

Once the Commission removes the CCL from the universal service support scheme, revision or the complete elimination of this charge should be considered in the Commission's Access Reform proceeding. If the Commission adopts the Board's

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[15] California Public Utilities Commission, Decision 96-02-023, *In the Matter of Alternative Regulatory Frameworks for Local Exchange Carriers*, Docket I.87-11-033, *et al.*, issued February, 7, 1996, pp. 29-31.

[16] 47 U.S.C. 151 *et seq.*, Section 254(b)(5).

recommendation and continues the CCL as part of the universal service support scheme, the Commission jeopardizes its ability to conclude both the present proceeding and the Access Reform proceeding. Indeed, because the revision of the CCL charge in one proceeding cannot effectively be completed without revision of the charge in the other proceeding, the Commission creates a circular regulatory exercise.

IV. THE COST REDUCTION INCENTIVES IN THE CURRENT UNIVERSAL SERVICE SUPPORT SYSTEM SHOULD BE RETAINED

Under present Commission rules,[17] telecommunications carriers with loop costs between 115 and 150 percent of the national average are eligible for a subsidy of only 90 percent of the differential between 115 and 150 percent. Likewise, carriers with loop costs below 85 percent of the national average are required to contribute only 90 percent of the differential below that threshold. This scheme encourages economic efficiency by penalizing high costs and rewarding low costs. Indeed, no carrier is assessed or awarded for the full difference between its loop costs and the national average.

In keeping with GSA's recommendation that economic efficiency should be a universal service principle, GSA believes that the Commission should retain these incentives.[18] Maintaining these incentives is also consistent with the 1996 Act's policy of encouraging more competitive and productive telecommunications markets.

[17] 47 CFR, Part 36.

[18] For a fuller discussion, see GSA Comments, April 12, 1996, pp. 2-4.

V. CONCLUSION

As the agency vested with the responsibility for representing the customer interests of all Federal Executive Agencies, GSA urges the Commission to implement the Joint Board's Recommended Decision in the manner described in these Reply Comments.

Respectively submitted,

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January 10, 1997

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